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Attorney for Defendant
Angela N. Rodriguez and
Mi Pueblito Restaurant, Inc.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JUAN GARIBAY,

Plaintiff,

vs.

ANGELA N. RODRIGUEZ AND MI
PUEBLITO RESTAURANT, INC.,

Defendants.

Case No.: 2:18-CV-09187-PA-AFM

**DEFENDANTS NOTICE OF
MOTION AND MOTION TO
CONTINUE PLAINTIFF'S
MOTIONS FOR MSJ;
MEMORANDUM OF POINTS &
AUTHORITIES IN SUPPORT
THEREOF' PROOF OF SERVICE**

DATE: December 23, 2019

TIME: 10:00 a.m.

TO ALL INTERESTED PARTIES:

PLEASE TAKE NOTICE THAT Defendants **ANGELA N. RODRIGUEZ** and **MI PUEBLITO RESTAURANT, INC.**, will and hereby do move the Court to Continue the MSJ hearing on February 3, 2019, at 1:30 p.m., at the First Street Courthouse, 350 W. 1st Street, Courtroom 9A, 9th Floor, Los Angeles, California 90012.

1 This motion will be made pursuant to Federal Rule 56, Local Rule 16-9, and
2 all applicable California case law, on this Notice, the Memorandum of Points and
3 Authorities attached hereto, the Declarations attached hereto, on the pleadings,
4 records and files in this action, and upon such other argument and evidence as the
5 Court may entertain at the hearing of this matter.

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9 DATED: December 19, 2019

10 By: 

11 Attorney for Defendant
12 Angela N. Rodriguez and Mi Pueblito
13 Restaurant, Inc.
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1 **MEMORANDUM OF POINTS & AUTHORITIES**

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3 This case involves the alleged failure of defendants to comply with the
4 ADA, 42 U.S.C. § 12182(a); and the California Unruh Act, Cal. Civ. Code § 51.

5 Plaintiff Juan Garibay (hereinafter referred to as “Plaintiff” or “Garibay”),
6 was and is a disabled individual. Defendant **ANGELA N. RODRIGUEZ**, an
7 individual, (hereinafter referred to as “Angela N. Rodriguez” and/or “Defendants”)
8 and the corporation **MI PUEBLITO RESTAURANT, INC** (hereinafter referred
9 to as “Mi Pueblito” and/or “Defendants”), was the owner of the Mexican
10 Restaurant at 12824 Van Nuys Blvd, Pacoima, CA 91331.
11

12 **INTRODUCTORY FACTS**

13 In this ADA compliance case filed by serial filer Juan Garibay against
14 Defendants **ANGELA N. RODRIGUEZ AND MI PUEBLITO RESTAURANT,**
15 **INC.**, Defendant Angela N. Rodriguez built the restaurant building in 2008 and
16 passed all applicable State of California and County of Los Angeles codes in force
17 and effect at that time. Angela N. Rodriguez is 70 years old and retired. She
18 leased the restaurant in 2018 prior to the filing of the instant case and has taken
19 steps to dissolve the corporation which plaintiff Juan Garibay has chosen to sue.

20 Plaintiff Juan Garibay supposedly visited defendants’ restaurant, along with
21 some 14 other business locations, in recent months around the time of the filing
22 and fabricated lawsuits against unsuspecting business owners in order to extort
23 money from them due to nominal insufficiencies in their levels of ADA
24 compliance. At the time the attorneys for plaintiff sent out letters and made phone
25 calls to defendant, who speaks only Spanish, that they would settle their claims for
26 \$4,000.00 and that if defendants chose not to settle that the amounts that would be
27 claimed if a lawsuit was filed would be significantly higher.
28

1 Defendants, of their own volition, redid the handicap parking space in order
2 to comply with the ADA. Nevertheless, plaintiff counsel continues to rigorously
3 pursue this retired business woman who simply owns the property with the threat
4 of attorney fees. Despite 30 years in the restaurant business, regular customers in
5 wheelchairs who never a complained, this gentleman comes from a different city
6 and state and manufactures a lawsuit at the direction of this this scourge of
7 California lawyers who have gotten rich extorting money from small business.

8 The Court has already found that said plaintiff is a multiple filer has not
9 complied with the requirements of the Central District case law and as a result the
10 state claims were in effect dismissed because the court chose not to exercise
11 supplemental jurisdiction over the state claims. Further, despite the completion of
12 the discovery requests, plaintiffs have filed a motion to compel responses that were
13 provided last June.

14 II.

15 LEGAL STANDARD

16 Per the motion to continue the MSJ hearing, no previous continuances were
17 had. Defendants request a continuance to respond due to failure of plaintiffs' to
18 mail the MSJ Motion and attachments, and due to the plaintiff's failure to provide
19 deposition dates for plaintiff;s deposition and due to recent receipt of the Mi
20 Pueblito CASp Report, **Exhibit 1**, and the extrenuous circumstances as set forth
21 in the Declaration of Defendant Angela N. Rodriguez and counsel Donald A.
22 Hilland.

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III.

FAILURE TO MEET AND CONFER

Defense counsel was never able to speak to plaintiff counsel about the filing of the MSJ and the dates. If emails were sent, none were received because there are too many different attorneys on this case and their emails are not recognized. Again no one picked up the phone and called. This could have been easily resolved if defense counsel had simply met and conferred.

IV.
CONCLUSION

Defendants request the Court continue the hearing due to their receipt of the Mi Pueblito CASp Report, Exhibit 1, and their current efforts to make the recommendations in the report to their location. Also defendants have asked for the deposition of plaintiff but no dates were provided. Defendants are requesting that the Court put the Motion for Summary Judgment out for 60 days to give defendants time to comply with the recommendations in the report and for us to respond timely take Plaintiff's deposition. Therefore, Defendants seek an order from this Court for to continue the MSJ hearing for 60 days.

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1 DATED: December __, 2019

2 By: _____
3 Donald A. Hilland, Attorney for Defendants
4 ANGELA N. RODRIGUEZ,
5 MI PUEBLITO RESTAURANT
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CERTIFICATE OF SERVICE

STATE OF CALIFORNIA)
) ss:
 COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and am not a party to the within action. My business address is: 209 N. Maclay Avenue, San Fernando, California 91340

On December 19, 2019, I served the foregoing documents described as **DEFENDANT'S MOTION TO CONTINUE MSJ HEARING, DECLARATION OF DONALD A. HILLAND; DECLARATION OF ANGELA N. RODRIGUEZ, EXHIBIT 1**, on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Shawnta Bush
 POTTER HANDY, LLP
 9845 Erma Road Suite
 San Diego, CA 92131

xxx **BY MAIL**

xxx I deposited such envelope into the Firm's office mail at San Fernando, California. I am readily familiar with the Firm's practice of collection and processing correspondence for mailing. Under that practice, in the ordinary course of business, the mail is affixed with postage thereon fully prepaid and deposited with the U.S. Postal Service in San Fernando, California on the same day. I am aware that on motion of a party served, service is presumed invalid if the postal cancellation date or the postage meter date is more than one (1) day after the date of deposit for mailing in this affidavit.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed December 19, 2019 at San Fernando, California.



 Amanda Vasquez